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10/729,000	12/05/2003	John M. Guynn	15257.3.2	9102

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John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,000

Applicant(s)

GUYN, JOHN M.

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 1 objected to because of the following informalities:

Claim 1, line 7, "restrain" should be --restraint--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-13, 16, 18, 20-26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,122,778 to Cohen.

Regarding Claim 1, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col. 1 line 13-15) in a desired position, comprising: a pair of opposing handles (Cohen #70, 86, 84 and Fig. 1 and 2); and attachment means (Cohen #32, 40, 54) for attaching the pair of opposing handles adjacent to a child's body on opposite sides of a child's center of gravity (Cohen #70) during use, the attachment means being configured so that at least one handle lies next to a child's body or clothing while the restraint device is worn so that a hand gripping the handle remains close to the child's body during use.

Regarding Claim 2, Cohen inherently teaches the handles comprising at least one loop comprising at least one of a fabric, plastic, elastomer, metal, ceramic, or composite material (Cohen #70, 86, 84; "Fabric" is defined as a "textile").

Regarding Claim 3, Cohen teaches the attachment means comprising a single sheet or strap of a flexible material configured so as to wrap at least partially around a child's body (Cohen #32).

Regarding Claim 4, Cohen teaches the attachment means comprising a plurality of straps configured so as to wrap at least partially around a child's torso or limbs (Cohen #36, 32, 40, 54).

Regarding Claim 5, Cohen teaches the attachment means comprising one or more fastening devices configured so as to releasably attach the attachment means to a child's body (Cohen #34 and 38).

Regarding Claim 6, Cohen teaches the fastening devices comprising one or more of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Cohen Fig. 3 #34 and 38 and Col. 8 line 19-20).

Regarding Claim 7, Cohen teaches the attachment means configured so as to position the handle means at or near at least one of child's spine or sternum (Cohen Fig. 1 and 2).

Regarding Claim 8, Cohen teaches the attachment means configured so as to position the handle means at or near a center of at least one of a child's chest, upper back, lower back, or stomach (Cohen Fig. 1 and 2).

Regarding Claim 10, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col.1 line 13-15) in a desired position comprising: a flexible corset or harness sized and configured so as to wrap around at least a portion of a child's body, wherein the corset or harness comprises a plurality of flexible straps (Cohen Fig. 8 #32, 36) that are laterally spaced apart that wrap at least partially around the child's torso but that expose at least a portion of the child's body between the flexible straps so as to permit washing (Cohen Col. 3 line 52 and Col. 7 line 52) of the exposed portion of the child's body between the flexible straps; at least one fastening device (Cohen #38 and 34) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a handle (Cohen Fig. 8 #70) attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent to the spine, sternum, stomach or chest of the child's body so that a hand gripping the handle remains close to the child's body when the device is in use.

Regarding Claim 11, Cohen teaches the handle comprising a loop (Cohen Fig. 9 #132 and 54).

Regarding Claim 12, Cohen teaches the handle inherently having sufficient friction that it can be reliably gripped without significant slippage when contacted with soapy water (Cohen Col. 3 line 52).

Regarding Claim 13, Cohen teaches the corset or harness inherently comprising at least one of a fabric, plastic, elastomer, metal or composite material (Cohen #32 and "Fabric" is defined as a "textile").

Regarding Claim 16, Cohen teaches the corset or harness further comprising one or more flexible straps sized and configured so as to wrap around at least one of a child's shoulders or legs (Cohen Fig. 8 #40 and 54).

Regarding Claim 18, Cohen teaches the fastening device comprises at least one of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Cohen Fig. 8 #4 and 38).

Regarding Claim 19, Cohen teaches a second handle (Cohen Fig. 8 there are two elements #70) attached to the corset or harness in a manner so that the second handle is positioned at or near a central balancing plane on an opposite side of the child's body relative to the handle when the restraint is in use.

Regarding Claim 29, Cohen teaches a cushioning material separate from the corset or harness, disposed on at least a portion of an inner surface of the corset or harness so as to shield and protect soft, sensitive skin of a baby or young child from the corset or harness when in use, the cushioning material inherently comprising at least one member selected from the group comprising fleece, felt, other soft and flexible fabrics, silicone, other polymeric gel materials, polyurethane foam, other soft and flexible foams or a friction enhancing material (Cohen #18 "fabric" is defined as a "textile" and element #18 is a garment i.e. textile).

Regarding Claim 20, Cohen teaches a method of holding or restraining a child in a desired position while giving the child a bath comprising, releasably attaching a handle (Cohen Fig. 8 and Col. 3 line 52 and Col. 7 line 52) to the child so that the handle is positioned at or near a central balancing plane of the child's body between the

child's head and buttocks; and gripping the handle so as to hold or restrain the child in at least one of a sitting, standing, or upright position within a container or basin that holds therein a quantity of water.

Regarding Claim 21, Cohen inherently teaches the child being held in at least one of a sitting or standing position during at least a portion of time in which the child is held or restrained within the container or basin (Cohen Col. 3 line 52 at some point the child inherently will be standing in the basin and Cohen Col.1 line 23-24).

Regarding Claim 22, Cohen teaches the handle (Cohen Fig. 1 and 2) is attached adjacent to the child's spine or sternum

Regarding Claim 23, Cohen teaches the handle (Cohen #70) is attached adjacent to the child's side.

Regarding Claim 24, Cohen teaches releasably (Cohen Fig. 8 #72 and there are two elements #70) attaching a second handle on a side of the child's body opposite the handle so that the second handle is positioned at or near the central plane of the child's body.

Regarding Claim 25, Cohen teaches gripping both handles while lifting the child into or out of the container or basin (Cohen Fig. 1 and 2 and Col. 3 line 52).

Regarding Claim 26, Cohen teaches the container or basin is a bath tub (Cohen Col. 3 line 52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 17, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 5,606,744 to Lindy.

Regarding Claims 9, 17 and 28, Cohen is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use. However, Lindy teaches a head restraining system configured to restrain a child's head in a desired position relative to the child's body (Lindy #10 and abstract). It would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the teachings of Lindy at the time of the invention to prevent head injury when the child is unstable as taught by Lindy (Lindy Col. 1 line 11-35).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 5,514,019 to Smith.

Regarding Claim 27, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col. 1 line 13-15) in a desired position, comprising a flexible corset or harness (Cohen Fig. 8) sized and configured so as to wrap around at least a portion of a child's body; at least one fastener (Cohen Fig. 8 #34) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a releasable handle (Cohen Fig. 8 #70 and 72) positioned next to the child's body or clothing at or near a central

balancing plane of the child's body so that a hand gripping the handle remains close to the child's body when the restraint device is in use, the releasable (Cohen Fig. 8 #72) handle comprising: a pair of straps (Cohen Fig. 8 there are two element #70) that may be selectively connected and unconnected that form a loop when selectively attached.

Cohen is silent on an attachment means for selectively connecting and unconnecting the pair of cooperating straps; however, Smith teaches an attachment means for loop handles on a restraint device (Smith Fig. 3 #13a and 13b). It would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the teachings of Smith at the time of the invention since the modification is merely the selection of an old and notoriously well-known fastener selected for its ergonomic features for quick and ease release and attachment while the person is wearing the device.

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 16-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,619,751; U.S. Patent No. 5,647,378; U.S. Patent No. 6,073,280; U.S. Patent No. 3,533,107; U.S. Patent No. 2,563,766; U.S. Patent No. 5,369,804; U.S. Patent No. 4,324,205; U.S. Patent No. 1,274,938; U.S. Patent No.

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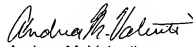
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5,075,903; U.S. Patent No. 4,429,419; U.S. Patent No. 2,645,781; U.S. Patent No. 2,468,742.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

24 March 2005